

Minutes  
**Workers' Compensation Study Project**

Status Meeting, July 24, 2006

1:30-3:30 pm, Conference Room A/B

Facilitator: Anne Wolfinger

**Project team present:** Lt. Governor John Bohlinger, Jerry Keck, Dore Schwinden, Anne Wolfinger, Diana Ferriter, Dave Elenbaas, Tyler Turner, Keith Messmer, Jeanne Johns, Debbie Blossom, Connie Ferriter, Wade Wilkison, Mari Kindberg, Chris Catlett

**Others:** Larry Jones (Liberty NW), Mary Boyle, Dan Gengler, Matthew Cohn, Nancy Butler (Montana State Fund), John Gottbreht (Putman & Associates), Riley Johnson (NFIB), Evan Karp (Montana Health Systems), Tana Wilcox (NorthWestern Energy), George Wood (Montana Self-Insurers), Bob Worthington (MMIA), Joe O'Rourke (F.H. Stoltze Land & Lumber), Aidan Myhre (The Gallatin Group), Spook Stang (Montana Motor Carriers), Jim Werbeckes (Employers Insurance Group), Kathy Hill and Stacy Allen (Benefis Healthcare), Webb Brown and Jon Bennion (MT Chamber of Commerce), Don Judge (Teamsters 190), Jim Dobbins (Town Pump), Kris Wilkinson, (Legislative Fiscal Division), Byron Roberts (Montana Building Industry), Shawn Bubb (MSGIA), Al Smith (MTLA), Dick Martin (Attorney).

**Introductions/Welcoming**

Anne Wolfinger welcomed everyone and had everyone introduce themselves and whom they represented.

**Opening Remarks**

Lt. Governor John Bohlinger welcomed everyone to the meeting and thanked everyone for his or her interest in the project. He expressed his appreciation for all the collaborative energy and effort to develop a plan to lead Montana into the future.

**Workers' Compensation Research Institute (WCRI) Administrative Inventory**

Duncan Ballantyne, Senior Analyst at WCRI presented an overview of an Administrative Inventory. **Refer to the handout provided.** The Employment Relations Division contracted with WCRI to perform the Administrative Inventory. Duncan explained the purpose of the study is to help policymakers and other participants understand the features of workers' compensation systems and make informed interstate comparisons. WCRI does not make recommendations nor take positions on issues. The objective of the Montana study is to describe how the Montana system is administered and functions. WCRI will have a draft to review sometime in October 2006. A presentation of the study findings will be given on January 10, 2007.

Jim Werbeckes asked if the study would address competition in Montana's system. Duncan answered the study will look at benefits and benefit delivery and will not address competition.

Anne Wolfinger advised she could provide a copy of a recent Administrative Inventory done by Duncan for the state of Arkansas. She asked anyone interested in seeing the study to contact her.

### **WCRI Illinois Comparison of State Medical Fee Schedules Over Medicare**

Keith Messmer, Chief of the Workers' Compensation Regulation Bureau presented a handout on a recent publication from WCRI that compares Illinois's medical fee schedule to Medicare's payment system. **Refer to handout.** He stated the comparison is timely because we are looking at moving from our current fee schedule to one that's based on Medicare's system. He cautioned that the Illinois comparison is based on its most common market basket of medical procedures that represent 82% of the total medical expenses in Illinois and Montana's market basket may be different.

He pointed out that Illinois's comparison shows Montana is ranked 16<sup>th</sup> "overall" among 42 states and that Montana pays 62 percent overall more than Medicare. In the Major Surgery category of medical payments, Montana pays 88% more than Medicare. In Radiology, Montana pays 37% more than Medicare. However, in Evaluation and Management, Montana pays 3% less than Medicare. He explained that Montana is looking at using a single conversion factor to be used for all specialties to make payments more equitable across the specialties.

Don Judge asked if the Medicare system of payments accounts for the rural nature in Montana and if payments to injured workers for travel to and from medical providers is included in medical payments. Keith answered that Medicare does account of the rural nature of states and that travel to and from medical provides is not included in medical payments.

Someone in the audience asked if we were planning to study prescription medications. Keith explained that we had contracted with Ingenix to look at Montana's methodology for paying for prescription medication and our plan is to find a more reasonable payment methodology than what's currently used – average wholesale price plus a dispensing fee of \$5.50.

Keith explained ERD contracted with Ingenix to analyze the impact of a conversion from our present non-hospital Relative Value Procedure (RVP) to a Resource Based Relative Value System (RBRVS) fee schedule to see where we stand above Medicare in our state.

### **NCCI Montana Workers' Compensation System Overview**

Mike Taylor, State Relations Representative from NCCI presented the latest data about Montana's system. **Refer to power point presentation and narrative.** He pointed out the major cost drivers in Montana are the high lost-time claim frequency; substantial utilization of vocational rehabilitation benefits, leading to upward pressure on permanent partial disability (PPD) costs; and higher than average medical costs.

Montana's most recent experience indicates a lost-time claim frequency about 50% greater than the countrywide average. The high frequency is evident for all injury types.

Montana's statute makes vocational rehabilitation services available to about a third of PPD recipients. This is significantly higher than the countrywide average (generally in the mid single digits). Voc Rehab benefits in Montana comprise over 5% of PPD indemnity costs, whereas the countrywide average is less than 1%. The time to return to work in Montana is significantly above the countrywide average. Therefore, a claimant's access to vocational rehabilitation benefits may not be delivering cost effective outcomes.

Montana's average medical cost per case is significantly higher than the countrywide average. Higher than average volume of costly back injuries may be a contributing factor to higher than average PPD medical cost per case. In Montana, when a certified employer managed care plan does not exist the employee chooses the treating physician. Studies have shown that generally an employee-choice based system leads to higher medical and indemnity costs. The average length of hospital stay in Montana is significantly longer than the countrywide average (for all types of hospitalization, not just workers compensation claims).

Matthew Cohn asked if agriculture was in the miscellaneous industry group for lost-time claims shown in the power point. Mike responded that agriculture is included in the miscellaneous group. Don Judge asked if the healthcare industry was included in the Goods & Services industry group. Don found in the narrative that Healthcare is included in the Goods & Services group.

Spook Stang asked if most of the minimum wage occupations were included in the Goods & Services group and Dan Gengler advised that 46% of employment is included in Goods and Services and most of the minimum wage occupations are also in that group.

Don Judge asked if there was a similar comparison for the selected study groups. Mike advised NCCI looked only at Montana.

### **Information Updates:**

#### **Medical/Subsidization Survey**

Jeanne Johns advised about 50% of the study states have responded to our survey on medical payment systems and subsidization of workers' compensation programs in those states. Our staff will compile the results and present the results. If anyone is interested in seeing the survey, contact Jeanne.

#### **Economic Metrics Research**

Jerry Keck advised ERD is looking at some economic metrics that we think could impact the costs of the system in Montana. We plan to compile the metrics for all of the selected study dates and present the results at the next status study. We're looking at the following metrics: Average wage, Percent of workers holding more than one job, Average age of workforce, Average number of hours worked per week, Unemployment rate for past 12 months, Education level of workforce, Number of employees by size of employer (using standard BLS categories), Percent of population living in cities by size of city (using standard U.S. Census Bureau categories and data), and Top 10 industries by payroll.

#### **Reciprocity for Construction Survey**

Jerry explained ERD was questioning whether or not Montana's law requiring out of state construction companies purchase MT workers' compensation coverage had any impact on MT's loss costs.

Connie Ferriter advised she had surveyed the study states asking whether or not they grant reciprocity for MT construction companies coming to their states. She explained MT's law

requiring MT coverage was intended to level the playing field for all MT construction employers – all employers (including out of state employers) would be required to purchase MT coverage – we no longer grant reciprocity to those employers. The survey results indicate only three of the study states allow MT employers to come into their and use their MT coverage to comply with their state laws – Idaho, Wyoming, and North Dakota. She explained we want to look at some additional information from NCCI regarding this issue, but the cost of the data may prohibit further work on this issue. She'll update the audience if more information is obtained.

### **Return-to-Work Research**

Debbie Blossom presented a power point explaining ERD's research in regard to the outcomes of return to work in MT. **Refer to handout.** The Rand Corporation conducted a similar study in New Mexico. Debbie and Tyler Turner, one of the Department's Economists, will use the Rand study as a model. They will use the Department's database to identify permanently partially disabled claimants and match that information to the Unemployment Insurance (UI) database to see who returned to work, when and at what wage. The plan is to have some results by January 2007. They make no promises about the results, but hope to have some objective data to measure the effectiveness of returning injured workers to work.

Don Judge pointed out that if an injured worker returned to work as an Independent Contractor there would be no information in the UI database. Debbie acknowledged there would be limitations in the data.

### **Governor's Conference on Workers' Compensation and Occupational Safety**

Keith Messmer reminded everyone of the dates for the conference – September 6, 7 & 8 in West Yellowstone and announced the website to register or get more information:

<http://erd.dli.mt.gov/upevents/upevents.asp#govconfstop>

### **Understanding National and State Issues on Workers' Compensation 2007**

Keith Messmer announced ERD's plans for a two-day educational conference to be held on January 10 & 11, 2007. The conference will help educate Legislators about workers' compensation in MT and also present the results of the WC Study so far. Duncan Ballantyne will return to present the final Administrative Inventory; Mike Taylor will return for the latest update from NCCI; and John Burton will give a presentation. National speakers will also be here to present the latest information in medical issues. Refer to the WC Study Project website for updates on this conference: <http://erd.dli.mt.gov/wcstudyproject/wcstudyproject.asp>

### **Next Steps:**

**The next status meeting will be September 18, 2006.**